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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/874,801	06/05/2001	Peter Simonelli	231.301	5916
24024	7590	11/20/2003	EXAMINER	
CALFEE HALTER & GRISWOLD, LLP 800 SUPERIOR AVENUE SUITE 1400 CLEVELAND, OH 44114			YIP, WINNIE S	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 11/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/874,801

Applicant(s)

SIMONELLI ET AL.

Examiner

Winnie Yip

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 14-18, 24, 26, 28, 29, 31-33, 37-39 and 41-45 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

- 5) ☒ Claim(s) 1-7 and 14-18 is/are allowed.
- 6) ☒ Claim(s) 24, 26, 28, 29 and 37-39, 41-44 is/are rejected.
- 7) ☐ Claim(s) 31-33 and 45 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

This office action is in response to applicant's amendment filed on July 23, 2000.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-7, 14-18, 24, 26, 28-29, 31-33, 37-39 and 41-45 are pending in the application.

Response to Amendment

1. As discussion per interview, applicant's argument filed July 7, 2003 that request for reconsideration of the finality of the rejection of the last Office action is deemed persuasive and, therefore, the finality of that action mailed February 26, 2003 is withdrawn. And, new rejections are grounded based on the newly cited reference(s) follow.

2. The Declaration filed under 37 CFR 1.132 filed July 7, 2003 is sufficient to overcome the rejection of claims 1-7, 14-18, and 24-40 based upon the rejections under U.S.C. 102/103 of last office action mailed February 26, 2003.

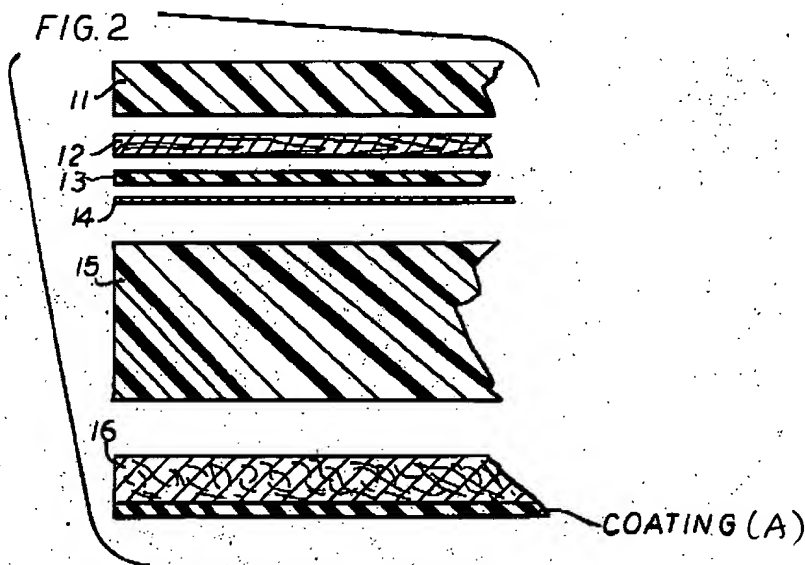
Claim Objections

3. Claim 31 is objected to because of the following informalities: it is not clear what does mean by "the moisture barrier bars moisture penetration" (line 3). The word "bars" (line 3) is not deemed proper. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. Claims 24, 28-29, 37, 39, 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Haigh (US Patent No. 3,770,536).

Haigh shows and discloses a building structure comprising: a laminated wood board formed by laminated ply components (11, 12, 16), the laminated wood board having a generally elongated cubicle shape with six sides, and an elastomeric membrane of a non-tacky, non-vulcanized, cured liquid rubberized coating material (A) coated onto the exterior ply component (16) of the laminated wood board and covering an entire surface of at least on side of the wood board, wherein the rubberized coating material (A) inherently provides a moisture and condensation barrier which has a thickness sufficient to prevent moisture and condensation from penetrating through the moisture and condensation barrier as claimed when the wood board is placed on a building construction such as on walls or floors (see col. 1, lines 11-12).



Claim Rejections - 35 USC § 103

5. Claims 38 and 42-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haigh '536 as applied to claims 28, 29, and 37 above.

Regarding to above claims, Haigh fails to specify the rubberized coating may cover more than one sides of the wood board as claimed. However, it is common engineering practice to provide a coating material covering various sides of a structure. It would have been an obvious matter of design choice to a person of ordinary skill in the art, at the time the invention was made, to perform equally well of the building structure of Haigh having the rubberized coating material covering variety sides of the wood board as claimed because all selected coverings perform the same function of preventing moisture penetration into the wood board in various locations.

6. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haigh '536 as applied to claim 24 above.

Regarding to claim 26, Haigh fails to specify the moisture and condensation barrier having a thickness as claimed. However, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to create optimal thickness of the barrier as claimed because it would have expected applicant's invention to perform equally well with the thickness taught by Haigh or the claimed of 4-to-8 mils equally well for sufficiently preventing suitable of penetration of the moisture and condensation, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Allowable Subject Matter

7. Claims 1-7 and 14-18 are allowed.

8. Claims 31-33 and 45 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments


9. Applicant's arguments filed July 7, 2003, with respect to the rejection(s) of claim(s) 1-7, 14-18, and 24-40 under 35 USC 102/103 of last office action have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Haigh ('536) as set forth above discussion.

Inquiry Contacts

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 703-308-2491. The examiner can normally be reached on M-F (9:30-6:30), Second Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


Winnie Yip
Primary Examiner
Art Unit 3637